



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BY FACSIMILE AND U.S. MAIL
(202) 457-6315

NOV 14 2016

Glen M. Willard, Esq.
Squire Patton Boggs (US) LLP
2550 M Street, NW
Washington, DC 20037

RE: MURs 7005 and 7056
Adam H. Victor
TransGas Development Systems, LLC
Transnational Management Systems II, LLC

Dear Mr. Willard:

On February 12, 2016, the Federal Election Commission notified your clients, Adam H. Victor and TransGas Development Systems, LLC ("TGDS"), of the complaint in MUR 7005 alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was forwarded to your clients at that time. On May 5, 2016, the Commission notified your clients, Adam H. Victor and Transnational Management Systems II, LLC (TNMS II), of the complaint in MUR 7056 alleging violations of the Act and forwarded a copy of that complaint to those clients at that time.

Upon further review of the allegations contained in the complaints, and information provided by your clients, the Commission, on October 25, 2016, found that there is reason to believe Adam H. Victor and TGDS each violated 52 U.S.C. §§ 30116(a) or 30118(a), and 30122, provisions of the Act, in connection with alleged contributions in the name of another. Also on that date, the Commission found that there is no reason to believe that Adam H. Victor or TNMS II violated 52 U.S.C. §§ 30116(a) or 30118(a) in connection with the leasing of an airplane to Friends of Herman Cain. The Commission also closed the file as to TNMS II. The Factual and Legal Analysis, which formed the basis for the Commission's findings, is attached for your information.

Your clients may submit any factual or legal materials that they believe are relevant to the Commission's consideration of these matters. Statements should be submitted under oath. All responses to the enclosed Order to Answer Questions and Subpoena to Produce Documents must be submitted to the General Counsel's Office within 30 days of your receipt of this letter. Any additional materials or statements you wish to submit should accompany the response to the

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order and subpoena. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

Please note that your clients have a legal obligation to preserve all documents, records and materials relating to these matters until such time as you are notified that the Commission has closed its files in these matters. *See* 18 U.S.C. § 1519.

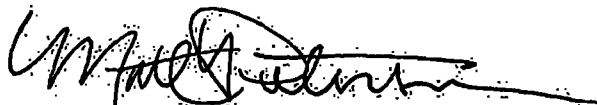
If your clients are interested in pursuing pre-probable cause conciliation, you should so request in writing. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of these matters or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of these matters. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondents.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

These matters will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

If you have any questions, please contact Roy Q. Luckett, the attorney assigned to this matter, at (202) 694-1650.

On behalf of the Commission,



Matthew S. Petersen
Chairman

Enclosures

Factual and Legal Analysis

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Adam H. Victor **MURs 7005 and 7056**
TransGas Development Systems, LLC
Transnational Management Services II, LLC

I. INTRODUCTION

Two Complaints, filed on February 1 and April 28, 2016, allege that Adam H. Victor or businesses that he owns or controls made \$63,000 in contributions in the names of others between March of 2011 and January of 2012 to two candidate committees, Manchin for West Virginia and Friends of Herman Cain, in violation of the Federal Election Campaign Act of 1971, as amended (the "Act").¹ The MUR 7056 Complaint further alleges, based on correspondence from November 2011 in the Complainant's possession, that Victor and other businesses made an in-kind contribution to Herman Cain and Friends of Herman Cain by leasing them a jet at a below-market price.

Respondents assert that the money Victor or one of his companies transferred to his employees and business associates was not for contributions, but for legitimate, non-political reasons. Further, they contend that the plane was leased at more than fair market value.

As explained more fully below, the record evidence supports a reasonable inference that Victor and one of his companies, TransGas Development Systems, LLC, made contributions in others' names. The record shows that several contributors received money from Victor and this company close in time to, and in the same amounts as, the contributions they made. Further, five of the contribution checks, which Victor's family members purportedly used to make

¹ Manchin for West Virginia is the principal campaign committee for Joe Manchin III, a candidate for the United States Senate from West Virginia in 2012. Friends of Herman Cain is the principal campaign committee for Herman Cain, a candidate for President in 2012.

1 contributions, were drawn on a bank account that Victor controlled, the checks did not have the
2 family members' names on them, and they were consecutively numbered. Finally, there is
3 information in the Commission's possession that Victor asked Complainant and individuals
4 working at a business involved in the airplane lease to make contributions that he would
5 reimburse.

6 Therefore, the Commission finds reason to believe that Adam H. Victor and TransGas
7 Development Systems, LLC, made contributions in the names of others. Regarding the airplane
8 lease, the Commission finds no reason to believe that Adam H. Victor or Transnational
9 Management Services II, LLC made an excessive or prohibited contribution because there is
10 sworn, expert information before the Commission that the Cain Committee paid at least fair
11 market rates for use of the plane.

12 II. FACTUAL AND LEGAL ANALYSIS

13 A. Contributions in the Name of Another

14 1. Facts

15 Victor owns and controls a variety of businesses, including TransGas Development
16 Systems, LLC ("TGDS"), Project Orange Associates, LLC ("POA"), and Adam Victor Grantor
17 Trust. Since 2002, Victor has made at least 41 contributions totaling more than \$212,000 to
18 Federal candidates and committees, including Manchin for West Virginia ("Manchin
19 Committee") and Friends of Herman Cain ("Cain Committee").²

² Victor contributed the maximum allowable amount to the Manchin Committee for the 2012 Primary and General Elections when he made two \$2,500 contributions on March 29, 2011, and made the maximum allowable contribution to the Cain Committee for the 2012 Primary Election when he contributed \$2,500 on January 17, 2012.

1 Victor solicited contributions for Cain,³ and he served on the host committee for a
2 November 11, 2011, fundraiser for the Cain Committee.⁴

3 The Complainant, a former employee of Victor,⁵ alleges that Victor or his businesses
4 made contributions to the Cain Committees through "straw donors," who are Victor employees,
5 business associates, and family members. The potential violations arising from 10 such
6 allegedly reimbursed contributions between November 2011 and January 2012 have not expired
7 under the applicable five-year statute of limitations:⁶ a \$2,500 contribution to Cain dated two
8 days before the event; seven others totaling \$15,500 dated January 17, 2012, which may be
9 related to that event; and two \$2,500 contributions to the Manchin Committee on December 30,
10 2011.⁷

³ See Victor Resp., Victor Decl. ¶ 6.

⁴ See MUR 7056 Compl. at 9 (¶ 51) (Apr. 28, 2016). A copy of the event program identifying Victor as a member of the Host Committee for the event is attached to the Supplement to the MUR 7056 Complaint ("Supplement") (Photocopy of Invitation to Cain Fundraising Event) (June 21, 2016).

⁵ Complainant Tyler Erdman and Victor appear to have an acrimonious relationship and are involved in unrelated litigation.

⁶ 28 U.S.C. § 2462.

⁷ Of the eight contribution checks made payable to the Cain Committee, only one, which was dated November 9, 2011, was received about the same time as the November 11, 2011, fundraiser. The Complaint and the Cain Committee's disclosure reports show the other contributions were received on January 17, 2012. Cain Committee 2012 April Quarterly Report (Apr. 13, 2012) at 12, 14, 16, and 17, available at <http://docquery.fec.gov/pdf/063/12970923063/12970923063.pdf>.

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2. Analysis

a. Payments to Victor Employees and Business Associates Match the Contribution Amounts

The allegation that Victor paid employees and business associates amounts that matched the amounts of their contributions is supported by copies of checks, provided in the Victor Response, made payable to two of the alleged straw donors.⁸

Randall Harris, a business associate of Victor, contributed \$2,500 to the Manchin Committee on December 30, 2011, one day after a \$2,500 check payable to Harris was drawn on an account of one of Victor's businesses, TGDS.⁹ Harris denies he was an employee of Victor, and explains that at the time of the contributions at issue, the Mingo County Redevelopment Authority retained him to advance one of TGDS's projects, building a coal-to-gas plant in West Virginia.¹⁰ Harris acknowledged receiving \$2,500 from TGDS through a check dated December 29, 2011, but stated that it was a reimbursement for travel expenses.¹¹

Nana Yoshioka, who at the time was Victor's personal assistant and a technical coordinator at (POA), a Victor business,¹² contributed \$2,500 to the Cain Committee on January

⁸ The Complaint also alleged contributions in the name of another involving some of the same alleged straw donors totaling \$40,000 to the Manchin Committee on or about March 29, 2011, activity that is now beyond the statute of limitations. See MUR 7005 Compl. at 5, 7, 14, 16, 17, 19, and 20 (¶¶ 17, 25, 67, 76, 85, 94, and 103). Each of the nine contributors who made a contribution to Manchin at the time of the March 29, 2011, fundraiser also contributed \$2,400 to Manchin on September 29, 2010, the maximum allowable limit at that time. Manchin Committee 2010 October Quarterly Report (Oct. 15, 2010), *available at* <http://docquery.fec.gov/pdf/290/10020881290/10020881290.pdf>. These contributions were not noted in either Complaint and are also beyond the statute of limitations.

⁹ The TGDS check, identified in the Complaint as check number 1252 but identified in the Victor Response as number 1256, lists "Reimbursement" on the "For" line. See MUR 7005 Compl. at 9 (¶¶ 35-36); Victor Resp., Harris Decl. (photocopies of checks accompanying Declaration).

¹⁰ Harris Resp. (Feb. 18, 2016)

¹¹ Victor Resp. at 10, Harris Decl. ¶ 2.

¹² Victor Resp., Yoshioka Decl. ¶ 3.

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1 17, 2012. The record includes evidence that TGDS issued a \$2,500 check to her on November 9,
2 2011, two days before the November 11, 2011, Cain Committee fundraiser in New York.¹³
3 Yoshioka states that the funds she received were a reimbursement for an IRA contribution.¹⁴

4 Marta Dani (formerly known as Marta Grabowska), POA's comptroller at the time of her
5 contribution, made a \$2,500 contribution to the Cain Committee on November 9, 2011.¹⁵ She
6 allegedly received payments from Victor or one of his companies matching the amount of this
7 contribution and \$5,000 she contributed to the Manchin Committee that is now beyond the
8 statute of limitations.¹⁶ She stated that the funds she received were a reimbursement for interior
9 design purchases and a contribution to her IRA.¹⁷ Victor's Response includes a 2011 federal tax
10 form for Dani dated May 22, 2012, showing an undated \$2,500 contribution to her IRA.¹⁸

11 Garry Coulter, an executive at the company responsible for providing insurance to
12 Victor's businesses,¹⁹ made a \$2,500 contribution to the Manchin Committee on December 30,
13 2011, and a \$500 contribution to the Cain Committee on January 17, 2012. The MUR 7005
14 Complaint alleges that Victor or his businesses control bank accounts at Signature Bank, and

¹³ See Victor Resp., Yoshioka Decl. (photocopies of checks accompanying Declaration). Yoshioka previously made two \$2,500 contributions to the Manchin Committee on March 29, 2011, seven days after Victor issued a \$5,000 check from his personal account to Yoshioka.

¹⁴ Victor Resp., Yoshioka Decl. ¶ 3.

¹⁵ Victor Resp., Dani Decl. ¶ 2.

¹⁶ The Victor Response did not provide copies of any checks made payable to Dani.

¹⁷ Victor Resp., Dani Decl. ¶ 3.

¹⁸ *Id.*

¹⁹ At the time that he attended the November 2011 Cain Committee fundraiser and made the December 30, 2011, contribution to the Manchin Committee, Coulter worked at USA Risk Intermediaries, LLC, as an Executive Vice President. See USA Risk Intermediaries, LLC, Resp. (May 26, 2016).

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1 checks from those accounts were issued to Coulter on or about the dates of the contributions.²⁰
2 There are no checks or other documents currently in the record corroborating the Complaint's
3 allegations. Coulter denies acting as "straw man" and initially replied that the funds paid to him
4 were for consulting services.²¹ In a subsequent sworn declaration, Coulter states that the
5 unidentified payments were not paid to him.²²

6 b. Victor Family Contribution Checks from One Account

7 The January 17, 2012, contributions from Victor's wife (Jo-Ann Bruggemann) and his
8 four children (Adam, Alexia, Alia, and Jo-Ayla Victor)²³ appear to have been made from one
9 checking account that Victor apparently owned or controlled. According to the MUR 7056
10 Supplement, around the time of the November 11, 2011, Cain fundraiser, Victor presented five
11 \$2,500 checks to the Cain Committee that did not show the names of the contributors.²⁴ A Cain
12 Committee representative emailed Garry Coulter and asked him to help identify the five
13 contributors.²⁵ The Cain Committee later sent Coulter a spreadsheet that lists Victor, his wife,
14 and his children as contributors. According to this spreadsheet, the contributions by Victor's
15 family were made with sequentially numbered checks.²⁶ The Cain Committee ultimately
16 disclosed the contributor information set forth on the spreadsheet.

²⁰ MUR 7005 Compl. at 10 (¶ 46). Coulter did not provide copies of any checks allegedly made out to him.

²¹ Coulter Resp. (Feb. 18, 2016) (response filed solely by Coulter prior to the Victor Response).

²² Victor Resp., Garry Coulter Decl. ¶ 3.

²³ It appears that all four of Victor's children were at least 19 years old at the time of the contributions.

²⁴ Supplement at 4 (¶¶ 10, 13) (June 21, 2016).

²⁵ The Supplement to the MUR 7056 Complaint contains copies of these emails. *Id.* at 5-7 (¶ 15-22).

²⁶ *Id.* at 7 (¶ 22), Ex. E.

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1 In his original Complaint in MUR 7056, the Complainant alleged that Victor arranged for
2 the contributions by his children in one of three possible ways.²⁷ The Supplement to that
3 Complaint, however, specifically alleges that Victor instructed Larrinaga to withdraw \$12,500
4 from one of Victor's Signature Bank accounts in Victor's name, or in the name of one of the
5 businesses that he controlled, to cover the five checks that were generated to make contributions
6 to the Cain Committee.²⁸

7 Each of the family members submitted sworn declarations averring that, "The
8 unidentified payments were not paid to" them.²⁹ The Victor Respondents challenge the validity
9 of the Complaints and Supplement.³⁰

10 c. Allegations that Victor Attempted to Make Other Contributions in
11 the Names of Others
12

13 Complainant alleges that Victor asked him and individuals working at a company with
14 which Victor did business to participate in the alleged reimbursement scheme. Complainant
15 alleges that Victor solicited him to be a "straw donor" shortly before the November 2011 Cain

²⁷ Compl. at 16 (¶ 16), MUR 7056.

²⁸ *Id.* at 8 (¶ 26). The Complainant maintains that he overheard Victor talking on the phone to Larrinaga in early November 2011 about generating checks for the Cain Committee fundraiser. *Id.* at 8 (¶ 27).

²⁹ See Victor Resp., Declaration of Jo-Ann Bruggemann.

³⁰ Victor Resp. to Supplement (July 25, 2016). Respondents assert that the MUR 7005 and MUR 7056 Complaints should be dismissed because the source of the information contained in the Complaints was not based on the Complainant's personal knowledge, and he has not identified the source of his information. *Id.* at 2. Respondents rely upon 11 C.F.R. § 111.4(d)(2), which requires that a complaint identify the complainant, be sworn and signed, and that the allegations in a complaint "not based upon personal knowledge" should identify the source of the information that "gives rise to the complainant's belief in the truth of such statements." Thus, the Commission's regulations do not require that complaints be based solely on personal knowledge or prohibit complaints based in information provided by third parties. On July 27, 2016, Victor filed another response that also did not address the allegation that the checks for the Victor family contributions were sequentially numbered. Victor Resp. to Supplement (July 27, 2016). Respondents continued to argue that the Complaint should be dismissed and refer to the Complainant's recent deposition testimony in a civil suit concerning his alleged lack of personal knowledge of the banking information cited in both Complaints.

1 fundraiser, but Complainant refused.³¹ The Commission has information that Victor also asked
2 individuals working at the company to contribute to various political candidates and promised
3 that he would reimburse them. This information tends to corroborate the allegations of
4 completed contributions in the names of others.

5 d. The Available Information Supports Finding Reason to Believe
6 that Victor and One of his Companies Made Contributions in the
7 Names of Others
8

9 The Act provides that a contribution includes "any gift, subscription, loan, advance, or
10 deposit of money or anything of value made by any person for the purpose of influencing any
11 election for Federal office."³² The term "person" for purposes of the Act and Commission
12 regulations includes partnerships, corporations, and "any other organization or group of
13 persons."³³ The Act prohibits corporations from making contributions to any federal candidate
14 or political committee and prohibits corporate officers and directors from consenting to such
15 contributions.³⁴ An LLC that elects to be treated as a corporation by the Internal Revenue
16 Service or an LLC with publicly traded shares shall be considered a corporation for contribution
17 purposes.³⁵ A contribution from an LLC that elects to be treated as a partnership shall be
18 attributed to its members in direct proportion to their shares of the profits, or by agreement of the
19 partners, subject to restrictions,³⁶ or, in the case of a single-member LLC, to its sole member.³⁷

³¹ Supplement at 8 (¶ 28); MUR 7056 Compl. at 14 (¶ 70). Neither the Manchin Committee nor the Cain Committee disclosed any contribution from Complainant.

³² 52 U.S.C. § 30101(8)(A).

³³ *Id.* § 30101(11); 11 C.F.R. § 100.10.

³⁴ 52 U.S.C. § 30118(a).

³⁵ 11 C.F.R. § 110.1(g)(3), (e)(1)-(2).

³⁶ *Id.* § 110.1(g)(2), (e)(1)-(2).

1 In the 2012 election cycle, the Act prohibited a person from making contributions to a candidate
2 which, in the aggregate, exceeded \$2,500 per election.³⁸ The Act further provides that no person
3 shall make a contribution in the name of another or knowingly permit his name or her to be used
4 to effect such a contribution.³⁹

5 The available information supports a reasonable inference that Victor and TGDS made
6 contributions in the names of others. Several of the alleged conduits acknowledge that they
7 received payments from Victor or his companies close in time to, and in the exact amounts of
8 their respective contributions. In addition, the sequentially numbered checks Victor's family
9 members purportedly used to make contributions all came from an account Victor apparently
10 controlled, and those checks did not have the contributors' names on them.

11 The alleged conduits offer a variety of explanations for the contemporaneous transfers of
12 funds they received in the same amounts as the contributions they made. Despite these
13 explanations, we find that there is a reasonable inference that the funds they received were to
14 reimburse their contributions.

15 Other than the contributions at issue here, almost all of the alleged conduits have scant
16 contribution histories. Indeed, most of the alleged conduits have made no other contributions
17 besides their contributions to the Manchin and Cain Committees.⁴⁰

³⁷ *Id.* § 110.1(g)(4).

³⁸ *Id.* See 11 C.F.R. § 110.1(b)(1).

³⁹ 52 U.S.C. § 30122. See also 11 C.F.R. § 110.4(b); *United States v. O'Donnell*, 608 F.3d 546, 549, 553 (9th Cir. 2010).

⁴⁰ Before his contributions in 2011 and 2012, Gary Coulter made eight contributions totaling \$4,750; according to the FEC contributor database. Alexia Victor, Jo-Ann Bruggemann, and Randall Harris are the only other alleged conduits who have made a contribution to an entity other than the Manchin and Cain Committees. Victor (as an 18 year-old student) and Bruggemann contributed \$6,000 and \$10,000, respectively, to the WV State Democratic Executive Committee on October 25, 2010, the same date that Victor made a \$10,000 contribution to

As for Victor, only one paragraph of his 21-paragraph Declaration addresses the conduit contribution allegation. Victor explains:

[t]o the best of [his] knowledge... the payments and/or checks alleged in the complaints as being reimbursements for the identified contributions were, with respect to Marta Dani, Nana Yoshioka and Gary [sic] Coulter, as stated in their declarations - strictly for business, employee IRA contributions or personal purposes, or with respect to the remaining individual respondents, as stated in their declarations - were not made at all.⁴¹

Victor does not specifically deny that he reimbursed the contributions; he merely relies on the declarations of the alleged conduits. However, these conduits did not swear that they made contributions with their own funds, nor did they expressly deny that Victor or one of his businesses made contributions in their names. Instead, Harris, Yoshioka, and Dani swear that the payments were for other purposes, such as travel reimbursements, dental expenses, IRA contributions, and home furnishings.⁴² However, it is improbable that all of these activities had the same value, \$2,500, and they all happened at about the same time. Victor's Declaration also does not specifically mention another alleged conduit, Randall Harris, among the individuals whose reimbursements were "strictly for business."⁴³

Further, Garry Coulter and all of Victor's family members signed sworn Declarations that contain the same sentence: "*unidentified payments and/or checks referenced in [the MUR 7005*

the same committee. WV State Democratic Executive Committee 2010 Post-General Report at 11,12 (Dec. 2, 2010), available at <http://docquery.fec.gov/pdf/133/10992359133/10992359133.pdf>. And only Harris has made another federal contribution since the alleged reimbursements: On June 26, 2014, he made a \$250 contribution to the Nick Rahall campaign. See Keep Nick Rahall in Congress Committee 2014 July Quarterly Report at 67 (July 15, 2014), available at <http://docquery.fec.gov/pdf/686/14961621686/14961621686.pdf>.

⁴¹ Victor Resp., Adam H. Victor Decl. ¶ 7.

⁴² Victor Resp., Harris Decl. ¶ 2, Yoshioka Decl. ¶ 3, Dani Decl. ¶ 3.

⁴³ *Id.* In contrast, the unsworn portion of the Victor Response describes Harris's reimbursement as "strictly for business" but omits such a description of Coulter's contribution from the group. Victor Resp. at 4.

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1 *Complaint*] were not paid to [Respondent].”⁴⁴ But these brief declarations supply no other facts,
2 except to verify that each declarant is a Respondent and to explain how they are related to Victor.
3 They do not explain why the Cain Committee needed help determining who made which
4 contribution or why the contribution checks associated with the Victor family members were
5 consecutively numbered. In fact, these Respondents do not even acknowledge they made
6 contributions. Indeed, the brief Declarations are not inconsistent with Victor simply paying for
7 their contributions.

8 In summary, the available information, including the match between the amounts Victor
9 or his companies paid the contributors and the amount of their contributions, the timing of these
10 payments, the improbability that these events are coincidental, the sequential numbering of the
11 family contribution checks, the lack of information in the Respondents’ denials, and the paucity
12 of other contributions by the alleged conduits all support the conclusion that Victor or his
13 companies made contributions in the names of others.⁴⁵

14 Accordingly, the Commission finds reason to believe that Adam H. Victor and TGDS
15 violated 52 U.S.C. §§ 30116(a) or 30118(a),⁴⁶ and 30122 by making excessive or prohibited
16 contributions in the names of others to the Manchin and Cain Committees.

⁴⁴ Victor Resp., Coulter Decl. ¶ 3; see Declarations of Jo Ann Bruggemann, Alexia Victor, Alia Victor, Jo-
Ayla Victor, and Adam Victor, Jr. Coulter’s Declaration attached to the joint Victor Response is not nearly as
specific as his earlier unsworn response to the MUR 7005 Complaint, which he filed individually. In the earlier
response, Coulter explicitly denies participating in a straw donor scheme and claims all of the payments he received
were for management consulting services. Coulter Resp. at 1-2.

⁴⁵ See, e.g., MUR 6234 (Arlén B. Ceñac, Jr., *et al.*) (Commission found reason to believe respondent
knowingly and willfully violated the Act by directing the assistant manager of a bank to prepare six cashiers’ checks
made payable to a political committee and listed the names and addresses of the “remitters” along with the specific
amounts to appear on each check).

⁴⁶ We note that certain facts — such as the tax status of TGDS — are unclear. We intend to discover that
information during the proposed investigation.

1 The Act also addresses violations of law that are knowing and willful.⁴⁷ The knowing
2 and willful standard requires knowledge that one is violating the law.⁴⁸ A violation of the Act is
3 considered knowing and willful if the "acts were committed with full knowledge of all the
4 relevant facts and a recognition that the action is prohibited by law."⁴⁹ Evidence does not have
5 to show that the respondent had a knowledge of the specific statute or regulation allegedly
6 violated, just that the respondent acted voluntarily and was aware that his conduct was unlawful;
7 an inference of knowing and willful conduct may be drawn from the defendant's scheme to
8 disguise the source of funds used in illegal activities.⁵⁰ As there is information in the current
9 record that could be viewed as suggesting that Victor and/or his businesses engaged in knowing
10 and willful activity by making contributions in the name of another, an investigation is needed to
11 resolve this issue.

12 **B. Alleged Excessive Contribution in the form of a Below-Market Airplane**
13 **Lease (MUR 7056)**
14

15 The Complaint alleges that Transnational Management Systems LLC ("TNMS") and
16 Transnational Management Systems II, LLC ("TNMS II"), two LLCs of Adam H. Victor, leased
17 an airplane to the Cain Committee at a reduced price.⁵¹ According to the Complaint, Victor
18 owns Gulfstream jets through the two LLCs, and an outside firm, Pegasus Elite Aviation, Inc.

⁴⁷ See 52 U.S.C. §§ 30109(a)(5)(B) and 30109(d).

⁴⁸ *Federal Election Commission v. John A. Dramei for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986).

⁴⁹ 122 Cong. Rec. 12, 197, 12,199 (May 3, 1976).

⁵⁰ *United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va 2013).

⁵¹ MUR 7056 Compl. at 17 (¶ 80).

1 ("Pegasus"), manages the jets.⁵² The Complaint alleges that, pursuant to an agreement between
2 the LLCs and Pegasus, the usual charter rate for use of the planes was \$5,000 per hour plus fuel
3 and airport fees, but the Cain Committee was charged only \$25,000 for five days, plus fuel and
4 airport fees, allegedly a 75% discount from the usual and normal charter cost.⁵³ In other words,
5 the Complainant alleges that the LLCs and Victor made in-kind contributions to the Cain
6 Committee worth \$75,000.⁵⁴

7 The available information suggests that the Cain Committee paid at least fair market
8 value to lease the plane owned by TNMS II. According to the available information, a customer
9 would ordinarily pay an hourly rate, and the typical charter rate at that time would have been
10 \$5,000 per flight hour plus a \$750 fuel surcharge. Under this calculation, the charge to Cain
11 would have been \$171,925. However, there is information before the Commission that the Cain
12 Committee paid separately for landings and fuel; these items are usually rolled into the hourly
13 charge. Cain paid a daily rate of \$5,000 for ten days, or \$50,000, plus \$112,350.15 in fuel costs,
14 and \$60,000 in landing fees for a total amount of \$222,350.15. Thus, according to the available
15 information, Cain actually paid at least the normal and usual charge. A sworn declaration from a
16 certified senior aircraft appraiser supports this argument.

17 The available information, which includes a sworn declaration from an apparently expert
18 appraiser, appears to sufficiently refute Complainant's allegation, and there is no contrary
19 information. Accordingly, the Commission finds no reason to believe that Adam H. Victor
20 or Transnational Management Systems II, LLC violated 52 U.S.C. §§ 30116(a) or 30118(a).

⁵² *Id.* at 6-7 (¶¶ 31-34).

⁵³ *Id.* at 8, 12 (¶¶ 40-42, 58-60).

⁵⁴ *Id.* at 12-14 (¶¶ 61-63, 66-68).

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